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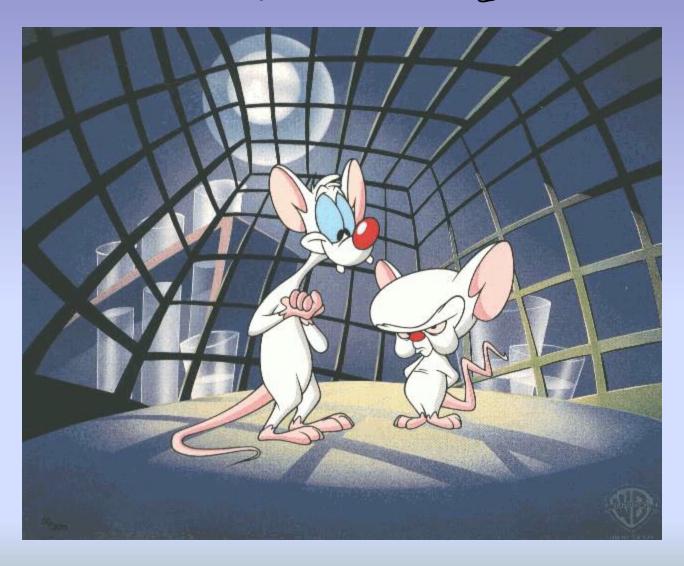
# Natural Resource Trustees & Natural Resource Managers

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# Caveats

- The term "trustee" as used in this presentation applies only to how that term is used pursuant to CERCLA, CWA, OPA, and the NCP.
- The content of this presentation does not necessarily reflect the official position of the Department of the Interior.

#### Natural Resource Managers & Natural Resource Trustees



Are they one and the same?

# It Depends

 resource and land managers, and trustees do come from the same agency

 resource and land management agencies do have management responsibilities for trust natural resources

#### Trust Natural Resources

- Roman law concepts of common property
- early applications to coastal and navigable water issues
- Public Trust Doctrine resources held in trust by state or federal governments for the benefit of the people
- doctrine now encompasses all natural resources

## Trust Natural Resources

 land, fish, wildlife, biota, air, water, ground water, drinking water supplies and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the U.S.

#### The Trustees

- Federal Official designated by the President
- State Official designated by the Governor
- Tribal Official designated by governing body of a Tribe
- Foreign Official designated by the head of a foreign government

### The Federal Trustees

- Department of the Interior
- Department of Commerce delegated to NOAA
- Department of Energy
- Department of Agriculture
- Department of Defense
- any other Federal Land Managing Agency

#### Trustee Authorities

- NCP 40 CFR 300.210(c)(4), 300.615(c)(3)(i), 300.615(a)
- CERCLA section 107(f)(2)
- CWA section 311, as amended by OPA section 1006
- authorize and direct the trustees to take appropriate actions necessary to protect and restore the natural resources under its trusteeship that have been injured by a release of a hazardous substance or discharge, or a substantial threat of discharge of oil.

#### What do Trustees do?

- participate in preparedness and response activities to avoid or minimize injury to natural resources
- assess damages for injury to, destruction of, or loss of natural resources under their trusteeship
- obtain compensation from the responsible party
- develop and implement a plan for restoration of injured resources

# Trusteeship at DOI

- trustee responsibilities split
  - NCP Response and preparedness OEPC is the Departmental representative with input and participation from the bureaus
  - activities associated with NRDAR a bureau "Authorized Official" is delegated the authority to act on behalf of the Secretary to conduct a natural resource damage assessment, restoration planning and implementation.

## What is a Resource Manager?

- have jurisdiction over parks, refuges, public lands, and certain water projects
- relevant expertise:
  - develop, administer, analyze &/or implement authorized programs
  - land, water, minerals, forests, oil, gas, agricultural, natural and cultural resources
  - surface and subsurface resources

# Resource Manger's Authorities

- agency "Organic Act"
- enabling Legislation
- Congressional Acts
- Executive Orders
- agreements
- treaties

## What do Resource Managers do?

- decisions are consistent with authorized purposes & management objectives
- manage resources to minimize impacts from allowable uses
- participate in preparedness and response activities to avoid or minimize impacts to resources under their management authority
- if Federal lands affected, Federal manager may sit in UC to provide guidance/concurrence on response and protection strategies consistent with the special status of the affected resources

## Who are the Resource Managers?

- managers of designated areas
  - National Park System
  - National Wildlife Refuges and Fish Hatcheries
  - National Forests
  - National Marine Sanctuaries
  - State parks and wildlife management areas
  - Tribal lands
  - other land managing agencies

## Who are the Resource Managers?

- program managers
  - wildlife
  - fisheries
  - habitat
  - recreation
  - cultural and historic
  - minerals
  - water

## Oil Spills with Participation by:

#### **Trustees**

- Morris J Berman
- Highland Drilling
- Reedy River
- Tampa Bay
- Savannah River
- LMM Int'l Airport
- Mayfield-Hodges
- Guanica

#### **Managers**

- Morris J Berman
- Highland Drilling
- Reedy River
- Tampa Bay
- Savannah River
- LMM Int'l Airport
- Mayfield-Hodges
- Guanica

# In Summary

- "trustees" are from agencies that have land and resource management responsibilities
- resource managers provide technical assistance and expertise for use by the OSC in response to and preparedness for NCP activities
- resource managers provide technical assistance and expertise for use in trustee activities (NRDAR)

# In Summary

- while the Secretary of the Interior is designated as the trustee, the day-to-day responsibility to act on behalf of the Secretary is delegated on a case-specific basis (NRDAR)
- trustees take appropriate actions necessary to protect and restore the natural resources under its trusteeship that have been injured by a release of a hazardous substance or discharge of oil

## Conclusion

- yes, resource and land managers are "trustees" not necessarily as defined under CERCLA and OPA, but as that term is used under the public trust doctrine
- "trustees" are agency staff members that work specific cases and/or develop policies and guidelines for NRDAR

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